

## Senate Resolution 364

By: Senators Fort of the 39th, Davenport of the 44th, Orrock of the 36th, Stoner of the 6th, Thompson of the 5th and others

## A RESOLUTION

1 Creating the Georgia Capital Punishment Study Commission to study the death penalty; to  
2 provide for the powers, duties, and compensation of its members; to urge the General  
3 Assembly to act in response to recommendations from the study commission; and for other  
4 purposes.

5 WHEREAS, life is the most valuable possession of a human being; and

6 WHEREAS, there has been increasing public awareness of cases of individuals wrongfully  
7 convicted of murder, in Georgia and elsewhere in the nation; and

8 WHEREAS, the General Assembly is aware that the possibility of mistakes in the death  
9 penalty process may undermine public confidence in our criminal justice system; and

10 WHEREAS, the execution of an innocent person by the State of Georgia would be a grave  
11 and irreversible injustice; and

12 WHEREAS, in January, 2006, the American Bar Association published *Ensuring Fairness*  
13 *and Accuracy in State Death Penalty Systems: The Georgia Death Penalty Assessment*  
14 *Report*, which analyzed 12 issues related to Georgia's laws, procedures, and practices related  
15 to the death penalty in Georgia; and

16 WHEREAS, there is public concern that demographic factors influence decisions to seek or  
17 impose the death penalty; and

18 WHEREAS, the experience of this state with the death penalty has been characterized by  
19 significant expenditures of money and time; and

20 WHEREAS, in order for the state to protect its moral and ethical integrity, the state must  
21 ensure a justice system which is impartial, equitable, and competent.

1 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF  
2 GEORGIA:

3 **SECTION 1.**

4 There is created the Georgia Capital Punishment Study Commission. The commission shall  
5 be composed of 19 members as follows:

- 6 (1) The majority leader of the Senate or his or her designee;
- 7 (2) The minority leader of the Senate or his or her designee;
- 8 (3) The majority leader of the House of Representatives or his or her designee;
- 9 (4) The minority leader of the House of Representatives or his or her designee;
- 10 (5) Two members appointed by the Governor, one of whom is employed by the State
- 11 Board of Pardons and Paroles and one of whom is employed by the Department of
- 12 Corrections;
- 13 (6) Two members appointed by the Lieutenant Governor, both of whom are members of
- 14 the Association County Commissioners of Georgia;
- 15 (7) The Chief Justice of the Georgia Supreme Court or his or her designee;
- 16 (8) The director of the Office of the Georgia Capital Defender or his or her designee;
- 17 (9) The director of the Georgia Public Defender Standards Council or his or her
- 18 designee;
- 19 (10) The chairperson of the Prosecuting Attorneys' Council of Georgia or his or her
- 20 designee;
- 21 (11) The Attorney General or his or her designee;
- 22 (12) The president of the State Bar of Georgia or his or her designee;
- 23 (13) The director of the Georgia Bureau of Investigation or his or her designee;
- 24 (14) The chairperson of the Georgia Death Penalty Assessment Team or his or her
- 25 designee;
- 26 (15) A member of the Georgia Association of Criminal Defense Lawyers who is death
- 27 penalty qualified, appointed by the president of the Georgia Association of Criminal
- 28 Defense Lawyers;
- 29 (16) The president of the Georgia chapter of the National Alliance on Mental Illness or
- 30 his or her designee; and
- 31 (17) The president of the Georgia chapter of the American Association on Mental
- 32 Retardation or his or her designee.

33 Members shall be appointed within 60 days of enactment of this resolution. Appointments  
34 should reflect the diversity of the population of Georgia. The commission shall choose a  
35 chairperson from among its members. Any vacancy in the membership shall be filled in the  
36 same manner as the original appointment.

**SECTION 2.**

(a) The commission shall study all aspects of the death penalty as currently administered in the State of Georgia, including, but not limited to, the following issues:

- (1) The recommendations made by the American Bar Association;
- (2) The recommendations of the Georgia Death Penalty Assessment Report;
- (3) The selection of defendants in Georgia for capital trials;
- (4) Whether there is a significant difference in the crimes of those selected for the punishment of death as opposed to those who receive life in prison;
- (5) Whether the death penalty rationally serves a legitimate penological interest such as deterrence;
- (6) Whether the state should establish a state-wide clearinghouse to review decisions to seek the death penalty and any other issues for which a state-wide clearinghouse would be useful in the context of death penalty cases; and
- (7) The standard of proof for proving mental illness or mental retardation in the context of death penalty cases.

(b) The commission shall include in its review *Ensuring Fairness and Accuracy in State Death Penalty Systems: The Georgia Death Penalty Assessment Report*, dated January, 2006, and the recommendations of such report; *Mandatory Justice: Eighteen Reforms to the Death Penalty*, a report of The Constitution Project's bipartisan, blue ribbon commission of capital punishment supporters and opponents; nonpartisan, academic, or government inquiries into the administration of capital punishment at state and national levels; and all data on homicides in Georgia for the past ten years and the nature of the disposition of each case including cases in which the death penalty was sought but not imposed and cases in which the death penalty could have been sought but was not sought.

(c) The commission shall make recommendations to guarantee that the application and administration of capital punishment in this state and the public policy of this state regarding capital punishment is free from bias and error and designed to guarantee fairness and accuracy and propose new legislation, if appropriate.

**SECTION 3.**

The commission is entitled to the assistance and service of the employees of any state, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes and to employ stenographic and clerical assistance.

**SECTION 4.**

The commission shall undertake a study of the conditions, needs, issues, and problems mentioned above or related thereto and recommend to the General Assembly any action or

1 legislation which the commission deems necessary or appropriate. The commission may  
2 conduct such meetings at such places and at such times as it deems necessary or convenient  
3 to enable it to exercise fully and effectively its powers, perform its duties, and accomplish  
4 the objectives and purposes of this resolution. The legislative members of the commission  
5 shall receive the allowances provided for in Code Section 28-1-8 of the Official Code of  
6 Georgia Annotated. Citizen members shall receive a daily expense allowance in the amount  
7 specified in subsection (b) of Code Section 45-7-21 of the Official Code of Georgia  
8 Annotated as well as the mileage or transportation allowance authorized for state employees.  
9 Members of the commission who are state officials, other than legislative members, and state  
10 employees shall receive no compensation for their services on the commission, but they shall  
11 be reimbursed for expenses incurred by them in the performance of their duties as members  
12 of the commission in the same manner as they are reimbursed for expenses in their capacities  
13 as state officials or employees. The funds necessary for the reimbursement of the expenses  
14 of state officials, other than legislative members, and state employees shall come from funds  
15 appropriated to or otherwise available to their respective departments. All other funds  
16 necessary to carry out the provisions of this resolution shall come from funds appropriated  
17 to the House of Representatives and the Senate. The expenses and allowances authorized by  
18 this resolution shall not be received by any member of the commission for more than ten  
19 days unless additional days are authorized. The commission shall make a report of its  
20 findings and recommendations, with suggestions for proposed legislation, if any; such report  
21 shall be made on or before December 31, 2009. The commission shall stand abolished on  
22 December 31, 2009.